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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

67,108-022; Capece 2-11

CERTIFICATE OF FACSIMILE

I hereby certify that this Pre-Appeal Brief Request For Review and Notice of Appeal are being facsimile transmitted to (571) 273-8300.

on February 11, 2008

Signature

Typed or printed name _____ Theresa M. Palmateer

Application Number

10/686,451

Filed

10/15/2003

First Named Inventor

Capece, Christopher J.

Art Unit

2617

Examiner

Lam, Dung Le

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

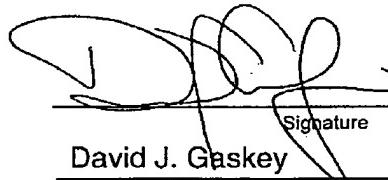
The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor. assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96) attorney or agent of record.Registration number 37,139 attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____



Signature

David J. Gaskey

Typed or printed name

(248) 988-8360

Telephone number

February 11, 2008

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below.

*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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67,108-022
Capece 2-11

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: Capece, Christopher J.

Serial No.: 10/686,451

Filed: 10/15/2003

Group Art Unit: 2617

Examiner: Lam, Dung Le

For: NEURAL NETWORK-BASED EXTENSION OF
GLOBAL POSITION TIMING**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants respectfully request Pre-Appeal Brief Review of the final rejection in this case because there is no *prima facie* case of obviousness.

The Examiner's proposed combination cannot be made because it changes the principle of operation of the arrangement in the primary reference. MPEP 2143.10(VI) states that a proposed modification or combination of the prior art does not establish a *prima facie* case of obviousness when that proposed combination changes the principle of operation of a reference. In this case, the Examiner proposes to combine the *Jin* reference (U.S. Pub. No. 2003/0012158) with a statement made by Applicants in Applicants' specification. Putting aside, for the moment, the Examiner's interpretation of Applicants' statement, the proposed combination cannot be made.

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The *Jin* reference discloses an arrangement where one base station (BTS) includes a global positioning system (GPS) device and the one BTS distributes the GPS timing information over an Ethernet connection among several BTSs connected to the one that has the GPS device. (See, e.g., paragraph 0008 on page 1 and paragraph 0028 on page 3). If there is no GPS signal available over the Ethernet connection, a clock recovery circuit at each connected BTS takes a data stream off the Ethernet connection and uses transitions of the data stream to "recover" the clock signal from the one BTS that includes the GPS device and a special oscillator to provide the clock signal. This is described, for example, in paragraphs 0037 and 0038 on page 4.

If one were to make the substitution suggested by the Examiner (e.g., to substitute in Applicants' future time data set generated by a neural network), in place of the clock signal recovery technique described in the *Jin* reference, that would completely change the principle of the operation of the arrangement in the *Jin* reference. Such a modification cannot be made according to MPEP 2143.01(VI). Replacing the clock signal recovery technique of the *Jin* reference with Applicants' future time data set completely changes the principle of operation in the *Jin* reference and there is no *prima facie* case of obviousness because the Examiner's proposed combination cannot be made.

Applicants further disagree with the Examiner's interpretation of the statement in paragraph 0024 of Applicants' specification. The Examiner interprets paragraph 0024 as if Applicants are admitting that it is known to generate a data set of future time information from a neural network. That is incorrect. The statements in paragraph 0024 of Applicants' specification indicate that neural network techniques are known and that one skilled in the art "who has the benefit of [Applicants'] description" will be able to apply a known neural network technique to generate a data set of coefficients that provide a curve fitting function to provide predicted or

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future time information in accordance with Applicants' specification. Applicants are the first to disclose or suggest using a neural network for generating future time information. There has not been any admission that the data set of Applicants' disclosure is known. Instead, the statement that the Examiner is taking out of context only indicates that neural network techniques are known.

The point of the statement in paragraph 0024 of Applicants' specification is that once a person of skill in the art understands from Applicants' disclosure that it would be useful to generate a data set of future time information using a neural network, such a skilled artisan could apply a known neural network technique to generate a data set that will meet their particular needs. In other words, after a person of skill in the art understands Applicants' disclosure, that skilled artisan would be able to apply a known neural network technique to practice Applicants' invention, based upon Applicants' disclosure (which is not prior art against Applicants' own claims).

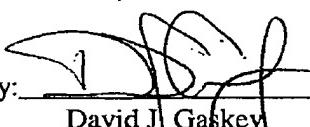
Therefore, the Examiner's proposed combination does not establish a *prima facie* case of obviousness because it is combining the *Jin* reference with a non-existent piece of prior art. In other words, Applicants have not admitted what the Examiner contends and the Examiner cannot rely upon Applicants' detailed description of their own invention as a piece of prior art for attempting to manufacture a *prima facie* case of obviousness.

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The final rejection must be withdrawn.

Respectfully submitted,

CARLSON, GASKEY & OLDS

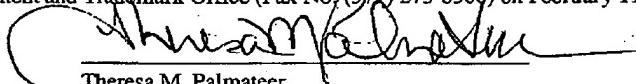
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Dated: February 11, 2008

CERTIFICATE OF FACSIMILE

I hereby certify that this Pre-Appeal Brief Request for Review, relative to Application Serial No. 10/686,451 is being facsimile transmitted to the Patent and Trademark Office (Fax No. (571) 273-8300) on February 11, 2008.


Theresa M. Palmateer

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